

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CRIMINAL DOCKET NO.: 5:04CR14**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>vs.</b>	)	
	)	
<b>JAMES ARNOLD GUNNINGS, JR.,</b>	)	<b>ORDER</b>
	)	
<b>Defendant.</b>	)	
<hr/>	)	

**THIS MATTER** is before the Court on Defendant's Motion to Set Aside Guilty Plea, filed February 8, 2006.

On March 22, 2004, Defendant was charged by way of Bill of Indictment with possession of a firearm by a convicted felon. Defendant retained Bill Baity, Esq. to represent him on this charge. On January 10, 2005, Defendant pled guilty to the charge in the Indictment. On January 5, 2006, Defendant discharged Mr. Baity and retained Lawrence W. Hewitt, Esq. as his attorney in this matter. Defendant now seeks to set aside his guilty plea, contending that he was not fully and properly advised as to the consequences of the entry of his plea and did not have a Plea Agreement with regard to the charges and the prospective sentence. Defendant further argues that he felt intimidated and threatened at the time he entered the guilty plea and maintains that he is in fact not guilty of the charge to which he pled guilty.

The Court will hear these matters when this case comes on for sentencing. At that time, the parties are expected to be prepared to proceed with sentencing in this matter if the Court denies Defendant's Motion to Set Aside Guilty Plea. That is, the parties should be prepared to argue the Motion to Set Aside Guilty Plea and to participate fully in Defendant's sentencing

hearing. The Defendant is advised to cooperate to the fullest extent with his attorney, Lawrence Hewitt, to adequately prepare for sentencing and the other motion.

**IT IS, THEREFORE, ORDERED** that Defendant's "Motion to Set Aside Guilty Plea" will be heard at such time as this case is scheduled for sentencing.

**IT IS FURTHER ORDERED** that the Clerk shall certify copies of this Order to Defense Counsel, the United States Attorney, the Courtroom Deputy Clerk, the United States Marshal Service, and the United States Probation Office.

Signed: February 8, 2006

A handwritten signature in black ink, reading "Richard L. Voorhees", written over a horizontal line.

Richard L. Voorhees  
Chief United States District Judge

